

# **2019 Restrictive Housing Annual Report**

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## Introduction

### Restrictive Housing Reform in Nebraska

This report describes the use of restrictive housing within the Nebraska Department of Correctional Services (NDCS) between July 1, 2018 and June 30, 2019 (Fiscal Year [FY] 2019). As of July 1, 2016, NDCS does not use restrictive housing for disciplinary purposes, but to assess and mitigate the risk of those persons who pose a significant threat to the safety of themselves or others.

There are two categories of restrictive housing in Nebraska: immediate segregation (IS) and longer-term restrictive housing (LTRH). IS is a short-term (30 days or fewer) placement used as an immediate response to a disruptive act or security threat. LTRH is a placement of longer than 30 days that provides rehabilitative programming and behavior management intervention for persons who pose continual risk to the safety of themselves and others, or to the security of the institutions. IS and LTRH will be discussed in greater detail in later sections of this report.

### Report Outline

This report is divided into five topical areas: (1) demographics of the restrictive housing population; (2) restrictive housing placement types, including the number, lengths of stay, and general characteristics of each stage of restrictive housing management (i.e., holding, IS, LTRH); (3) special needs populations; (4) direct releases from RH into the community; and (5) the use of restrictive housing in surrounding states.

### Report Contents

There are a wide variety of topics that could be included in any discussion of restrictive housing (e.g., specific analyses of program effectiveness, recidivism, staffing considerations). While these issues are important, the scope of this report is specifically defined in Nebraska Revised Statute §83-83-4,114(4). As such, the five topical areas described above will address the eight specific points of interest outlined in statute:

1. The race, gender, age, and length of time each inmate has continuously been held in restrictive housing;
2. The number of inmates held in restrictive housing;
3. The reason or reasons each inmate was held in restrictive housing;
4. The number of inmates held in restrictive housing who have been diagnosed with a mental illness or behavioral disorder and the type of mental illness or behavioral disorder by inmate;
5. The number of inmates who were released from restrictive housing directly to parole or into the general public and the reason for such release;
6. The number of inmates who were placed in restrictive housing for his or her own safety and the underlying circumstances for each placement;
7. To the extent reasonably ascertainable, comparable statistics for the nation and each of the states that border Nebraska pertaining to items listed in 2 through 6, above; and
8. The mean and median length of time for all inmates held in restrictive housing.

In addition to the statistical contents described above, this report will also highlight restrictive housing reforms that were made during FY2019, and those on the horizon for FY2020.

### Data Notes

In November of 2017, a restrictive housing data tracking system was added to the Nebraska Inmate Case Management System (NICaMS), the official source of record for electronic inmate information. The addition of an electronic tracking mechanism provided improvements over the paper documentation submitted in previous years by increasing the standardization of information collected across facilities, enhancing the integrity of reported data, and making restrictive housing information more readily available. FY2019 is the first full year for which complete electronic restrictive housing data exists in NICaMS. As such, the data presented in this report was gathered entirely from these entries. Any missing or incomplete records that may exist in the system should be limited to what would reasonably be expected from routine errors in data entry (e.g., typos, late entries).

## Restrictive Housing Population Demographics

### Average Daily Population (ADP)

Average Daily Population (ADP) is a population metric that assess the average number of people incarcerated on any day during a given time frame (in this case, between July 1, 2018 and June 30, 2019). To calculate the average daily population for this report, the total number of days all individuals spent in restrictive housing between July 1, 2018 and June 30, 2019 was divided by 365. This calculation is a more accurate reflection of population levels relative to snapshot, or point-in-time, estimates because it controls for the normal fluctuations that occur within any population.

### ADP Distribution by Facility

Table 1 shows the restrictive housing ADP for each facility, and the agency total, for fiscal years 2016 through 2019. Details regarding the length of time spent on specific restrictive housing statuses (i.e., immediate segregation [IS] vs. longer-term restrictive housing [LTRH]) are discussed in later sections of this report. On average, approximately 372 people were held in restrictive housing on any given day during FY2019. This is a decrease of nearly 32 people per day relative to FY2018.

Table 1: Restrictive Housing Average Daily Population (ADP) by Facility

<b>Facility</b>	<b>FY2016</b>	<b>FY2017</b>	<b>FY2018</b>	<b>FY2019</b>
LCC	84.27	71.05	67.28	46.47
NCCW	10.20	9.06	9.96	3.78
NCYF	7.72	5.45	4.52	7.42
NSP	84.49	86.59	120.29	128.72
OCC	13.46	7.89	12.03	12.73
TSCI	188.40	168.17	189.78	173.07
<b>NDCS Total</b>	<b>388.54</b>	<b>348.22</b>	<b>403.86</b>	<b>372.19</b>

**General facility trends**

The overall distribution of the restrictive housing population across institutions has remained relatively consistent since FY2016. In addition, these distributions are consistent with the known missions of each facility and the respective compositions of their populations. Tecumseh State Correctional Institution (TSCI) has the largest RH population in the system, averaging about 173 individuals per day (46.5% of the agency RH population), because its original design included mission-specific housing dedicated to managing high risk populations. TSCI’s design allows it to house the largest concentration of individuals assigned to LTRH which, by nature, does not turnover as quickly as the IS population. The Nebraska State Penitentiary (NSP) has the second highest restrictive housing ADP of 128.72 (34.6%), an increase of about eight people from FY2018. NSP was not specifically designed for restrictive housing populations, as was the case with TSCI, but it is the largest facility. In addition, it houses a large maximum custody population, as well as the second highest concentration of medium custody individuals.

The ADP of 46 (12.5%) at the Lincoln Correctional Center (LCC) has decreased substantially from FY2018 (67.28, or 16.7%). This decrease was likely caused by significant changes in the ways in which NDCS manages two special needs populations: individuals who require protective management housing and those with significant mental health concerns. Both of these operational enhancements will be discussed in more detail in later sections of this report.

The ADP of 12.73 (3.4%) at the Omaha Correctional Center (OCC) is the smallest for institutions that house males over the age of 19; and, is virtually unchanged from FY2018 (12.03). This is likely due to two factors. First, OCC does not have a unit for inmates assigned to LTRH. As a result, the inmates placed on IS status at this facility necessarily have a shorter length of stay than at other institutions. Second, OCC houses medium and minimum custody inmates – a large concentration of whom are close to transitioning into the community. This population generally presents fewer management challenges, as these individuals are more cautious to not jeopardize their release.



The Nebraska Correctional Youth Facility (NCYF) and the Nebraska Correctional Center for Women (NCCW) have the lowest restrictive housing populations due both to their size and the specific nature of their populations. The total ADP for NCYF as an institution was 66, and the facility was designed with a maximum restrictive housing capacity of eight. NCCW also had a relatively small institutional ADP in FY2019 (322.14), and a reduction in restrictive housing ADP from 9.96 to 3.78. The low restrictive housing ADP at NCCW, however, is likely because of the differing natures of challenges in men's and women's prisons. Relative to male inmates, there is much less physical violence among female populations, and issues can often be deescalated verbally or through other techniques that do not require the use of restrictive housing. As a result, the restrictive housing population is generally low at NCCW because such housing is reserved for more serious (and rarer) events.

### Fiscal year changes in ADP

There are noticeable annual variances in the NDCS RH populations between FY2016 and FY2019, which reflect a shift in the theoretical framework regarding the use of restrictive housing, as well as improvements in managing individuals in general population.

The FY2016 ADP data (N=388.54) reflects the baseline population prior to the implementation of new reform efforts. The decrease in FY2017 (N=348.22) demonstrates the effects of NDCS no longer using restrictive housing as a disciplinary sanction, and a shifting practice to reserving restrictive housing beds for cases requiring risk management. Although the population increased to 403.86 in FY2018 (N=403.86), this is likely due to a combination of three factors: (1) routine placements, (2) significant events that occurred during FY2017 and were not manifested in the LTRH data until FY2018 (i.e., a large-scale disturbance at TSCI in March of 2017; removing security threat group (STG) leaders from general population to minimize their influence), and (3) the implementation of The Challenge Program for inmates in need of cognitive-behavioral interventions as their most direct pathway out of restrictive housing.

The ADP decrease to 372.19 in FY2019 can be attributed to NDCS's continuing efforts to house people in the least restrictive environment possible, while still maintaining the safety and security of the individual, other incarcerated persons, and staff. Specifically, during FY2019, NDCS was able to repurpose 62 beds previously categorized as restrictive housing into mission-specific housing units that allow inmates more than four hours out of cell each day, yet still ensure the needs of these populations are met. Specifically, 32 beds were converted into a Limited Movement Unit for individuals who must be separated from other individuals while a permanent protective custody (PC) or alternate general population housing assignment is made. An additional 30 beds were converted from Secure Mental Health beds into a 3-tier system of care for inmates with acute, subacute, and chronic mental health care needs. More details about these units, and other changes made to improve the management of individuals with PC and mental health needs, are provided in later sections of this report.

**ADP Distribution by Race/Ethnicity and Gender**

Table 2a shows the distribution of the FY2019 restrictive housing population across racial/ethnic groups, as well as by gender. Table 2b presents the same distribution across the entire NDCS population. Among male inmates, those who identify as Hispanic are overrepresented in restrictive housing (19.43%), relative to their proportion of the NDCS population (14.33%). As noted above, STG leaders were strategically removed from general population housing units in order to minimize their influence in FY2017, and efforts to reduce gang-related violence have continued through FY2019. One of the most active STG organizations within NDCS organizes itself around Hispanic racial/ethnic lines. Given the proliferation of this group within NDCS, it should be expected that a greater concentration of Hispanic individuals exists in restrictive housing relative to their proportion in the overall system. In addition, individuals in this STG have a self-imposed “code” that prohibits members from engaging in The Challenge Program. By refusing to engage in risk-reducing programming, these individuals prolong the length of time they spend on LTRH status.

Table 2a: ADP of Restrictive Housing by Race/Ethnicity and Gender<sup>1</sup>, FY2019

<u>Race/Ethnicity</u>	<u>Male ADP</u>	<u>Male %</u>	<u>Female ADP<sup>2</sup></u>	<u>Female %</u>	<u>Total ADP</u>	<u>Total % by Race/Ethnicity</u>
ASIAN	0.83	0.22%	0.01	0.14%	0.83	0.22%
BLACK	111.47	30.26%	0.78	20.49%	112.25	30.16%
HISPANIC	71.59	19.43%	0.36	9.41%	71.94	19.33%
NATIVE AMERICAN	31.76	8.62%	0.66	17.38%	32.42	8.71%
OTHER	1.00	0.27%	0.06	1.52%	1.05	0.28%
PACIFIC ISLANDER	0.05	0.01%	0.00	0.00%	0.05	0.01%
WHITE	151.06	41.00%	1.93	51.05%	152.99	41.11%
(blank)	0.65	0.18%	0.00	0.00%	0.65	0.18%
<b>Total</b>	<b>368.41</b>	<b>100.00%</b>	<b>3.78</b>	<b>100.00%</b>	<b>372.19</b>	<b>100.00%</b>

<sup>1</sup>Total ADP and percentage columns may not appear to total exactly due to rounding.

<sup>2</sup>Restrictive housing for female inmates exists only at NCCW.

Tables 2a and 2b further highlight the gender differences in the assignment of individuals to restrictive housing. Specifically, while 368 males were in RH on any given day during FY2019 (7.3% of the male population), the entire population of women incarcerated within NDCS was only 419 women; fewer than four women per day were on a restricted housing status (0.9% of the total female population). Given these small numbers, comparisons of the racial/ethnic composition of the female restrictive housing population to the larger female population is not appropriate, as it may be misleading. For example, while nearly 30% of the restrictive housing ADP was composed of black and Hispanic women, this percentage translates to a total ADP value of approximately 1.13 women.

Table 2b: ADP of NDCS by Race/Ethnicity and Gender<sup>1</sup>, FY2019

<u>Race/Ethnicity</u>	<u>Male ADP</u>	<u>Male %</u>	<u>Female ADP<sup>2</sup></u>	<u>Female %</u>	<u>Total ADP</u>	<u>Total % by Race/Ethnicity</u>
ASIAN	40.96	0.81%	1.49	0.36%	42.45	0.78%
BLACK	1,458.50	28.83%	59.23	14.14%	1,517.73	27.71%
HISPANIC	724.61	14.33%	35.56	8.49%	760.17	13.88%
NATIVE AMERICAN	200.53	3.96%	28.50	6.80%	229.03	4.18%
OTHER	37.89	0.75%	7.62	1.82%	45.51	0.83%
PACIFIC ISLANDER	5.15	0.10%	1.00	0.24%	6.15	0.11%
WHITE	2,585.14	51.11%	285.53	68.16%	2,870.67	52.41%
(blank)	5.36	0.11%	0.00	0.00%	5.36	0.10%
<b>Total</b>	<b>5,058.15</b>	<b>100.00%</b>	<b>418.93</b>	<b>100.00%</b>	<b>5,477.08</b>	<b>100.00%</b>

<sup>1</sup>Total ADP and percentage columns may not appear to total exactly due to rounding.

<sup>2</sup>Incarcerated Female ADP includes women housed in the Community Corrections Centers, in addition to NCCW.

### ADP Distribution by Age and Gender

Table 3 provides the distribution of the restrictive housing population across age groups, as well as by gender. Over half of the average daily population during FY2019 (51.9%) was accounted for by individuals between the ages of 22-31. Slightly more than one-quarter of the population (28.09%) was between the ages of 32 and 41. Individuals under the age of 22 made up approximately 9.6% of the RH population, while the remaining 10.4% was accounted for by persons 42 years of age or older.

Table 3: ADP of Restrictive Housing by Age Group and Gender<sup>1</sup>, FY2019

<u>Age Group</u>	<u>Male ADP</u>	<u>Male %</u>	<u>Female ADP<sup>2</sup></u>	<u>Female %</u>	<u>Total ADP</u>	<u>Total % by Age Group</u>
18 and Under	4.27	1.16%	0.03	0.72%	4.30	1.15%
19-21	31.35	8.51%	0.16	4.20%	31.51	8.47%
22-26	96.84	26.29%	0.65	17.09%	97.48	26.19%
27-31	94.57	25.67%	1.13	29.76%	95.70	25.71%
32-36	61.63	16.73%	1.19	31.50%	62.82	16.88%
37-41	41.36	11.23%	0.36	9.63%	41.73	11.21%
42-46	20.39	5.53%	0.05	1.45%	20.44	5.49%
47-51	6.86	1.86%	0.15	4.06%	7.01	1.88%
52-56	6.64	1.80%	0.04	1.16%	6.68	1.80%
57-61	3.07	0.83%	0.00	0.00%	3.07	0.83%
62 and Above	1.44	0.39%	0.02	0.43%	1.45	0.39%
<b>Total</b>	<b>368.41</b>	<b>100.00%</b>	<b>3.78</b>	<b>100.00%</b>	<b>372.19</b>	<b>100.00%</b>

<sup>1</sup>Total ADP and percentage columns may not appear to total exactly due to rounding.

<sup>2</sup>Restrictive housing for female inmates exists only at NCCW.

These age distributions for the NDCS restrictive housing population are similar, though not identical, to the age distribution patterns of criminal offending, in general. The average age of onset for criminal behavior is between the mid-teenage years and early 20s. There is then an “aging out” phenomenon in which crime rates reduce significantly

for people between the ages of 20-25, and steadily continue to decline as people get older.

As with the FY2018 restrictive housing population, the same “aging out” trend is present in FY2019 but appears to be delayed. Specifically, the highest proportions of the restrictive housing population are in the 22-26 (26.19%) and 27-31 (25.71%) year age ranges. The expected sharp decline does not begin until the 32-36 year age range (16.88%). This shift from the typical age-crime curve can likely be explained by the logistics of court processing and the fact that this report focuses on a prison population. It is likely that people who are sentenced to prison began their criminal offending at ages younger than when they entered prison. In addition, judges typically use prison sentences only after other lower-level alternatives (e.g., fines, probation, jail) have been exhausted for repeat offenders, or when first-time offenders have committed especially heinous crimes against another person. Because people are likely to be older by the time they first enter prison and have more ingrained patterns of deviant behavior, it is logical that the population with significant risk management needs in prison is older than what is represented in the community. In addition, inmates over the age of 40 likely have the largest proportion of individuals serving lengthy, if not life-long sentences. Individuals with long sentences generally find ways to adapt to the prison environment and build a routine that allows them to pass their time with the fewest disruptions possible.

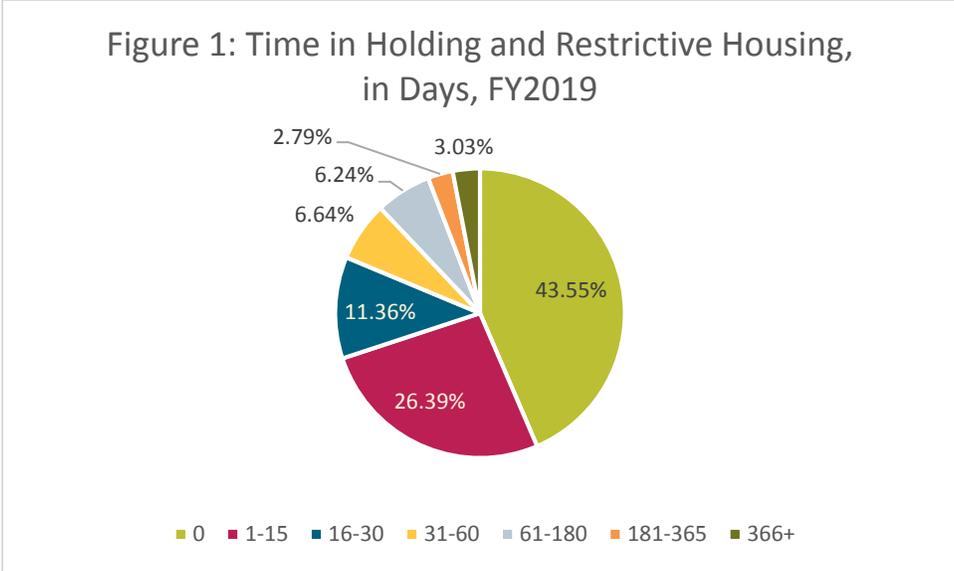
### Holding Placements and the Restrictive Housing Pass-Through Population

During FY2019, a total of 1,820 unique individuals were held in restrictive housing for at least one day during the year. The average length of time spent in a given restrictive housing event was 41.76 days, though the distribution varies widely, with the median length of stay<sup>1</sup> being three days. Figure 1 shows the distribution of the restrictive housing population by length of stay, as well as the proportion of people placed in holding who were not subsequently assigned to immediate segregation. While holding placements do not constitute restrictive housing, they play an important role as a necessary precursor.

About 44% of individuals sent to holding were released the same day. The continued increase in this number (42% of holding events in FY2018) indicates NDCS continues to move in the right direction in terms of culture change. Facility staff are encouraged to use alternatives to restrictive housing whenever possible, and to use restrictive housing placements for the shortest amount of time necessary. These practices are evidenced in the data. Nearly 38% of the restrictive housing placements are for 30 days or less, with over a quarter of those stays (26.39%) ending within 15 days.

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<sup>1</sup> Length of stay for restrictive housing events are calculated as the number of days from a person’s initial placement in holding to their restrictive housing release date. For individuals who were assigned to a restrictive housing status on the last day of FY2019, their event length of stay was calculated from their initial holding placements through June 30, 2019.



Only 6.6% were between 31 and 60 days, which is a significant downward departure from 20.5% of placements in FY2018. Six percent of placements lasted between two and six months, and only 3.0% were for more than one year (a slight decrease from 3.73% in FY2018). The next section of this report discusses holding placements and both of the restrictive housing stages – immediate segregation and longer-term restrictive housing – in greater detail.

### Restrictive Housing Placement Types

On July 1, 2016, the Nebraska Department of Correctional Services (NDCS) discontinued the use of restrictive housing for disciplinary or punitive purposes. Since then, restrictive housing has been used to mitigate the risk a person poses to him- or herself; fellow inmates; staff; and/or the safety, security, and good order of the institution. When a significant event occurs, an individual may be taken to a holding cell, which is a secure, temporary placement location away from the general population, while staff determine the best way to resolve the situation. While holding is not a restrictive housing status, it is the catalyst for immediate segregation (IS) and longer-term restrictive housing (LTRH), and it plays an important role in contextualizing the use of restrictive housing within NDCS.

### Holding Placements

Between July 1, 2018 and June 30, 2019, 4,833 unique holding events were recorded in the electronic restrictive housing data tracking system. On average, there were around 13 holding placements per day. Because holding placements are temporary, there is no length of stay to be calculated for this event. If persons are to be held for 24 hours or more, they are assigned to IS.

Table 4 shows the outcomes of the FY2019 holding events. As discussed in the previous section, an alternative to restrictive housing (i.e., alternative placement or mission-specific housing) was deemed appropriate in 46% of these cases, and

individuals were released from holding on the same day. Alternative placements may include returning persons to their regularly assigned housing location, moving them to another facility or housing unit, or referring them to a mission-specific general population housing unit. Mission-specific housing units place individuals with common demographics, interests, challenges and/or needs together to provide safe and effective living environments; thereby reducing the need for restrictive housing. Although a significant proportion of holding events were resolved through the use of alternative housing options, over one-half of the holding placements (53.69%) could not be resolved on the same day, and resulted in assignments to IS.

Table 4: Holding Outcomes, FY2019

<u>Disposition</u>	<u>Count of Events</u>	<u>% of Events</u>
Immediate Segregation	2,595	53.69%
Alternative Placement	2,025	41.90%
Mission-Specific Housing	213	4.41%
<b>Total</b>	<b>4,833</b>	<b>100.00%</b>

**Reasons for holding placements**

To ensure restrictive housing placements are used only for risk management purposes, NDCS classifies incidents that result in holding placements into one of the six categories identified below:

1. A serious act of violent behavior (i.e., assaults or attempted assaults) directed at correctional staff and/or at other inmates.
2. A recent escape or attempted escape from secure custody.
3. Threats or actions of violence that are likely to destabilize the institutional environment to such a degree that the order and security of the facility is significantly threatened.
4. Active membership in a “security threat group” (prison gang), accompanied by a finding, based on specific and reliable information, that the inmate either has engaged in dangerous or threatening behavior directed by the security threat group, or directs the dangerous or threatening behavior of others.
5. The incitement or threats to incite group disturbances in a correctional facility.
6. Inmates whose presence in the general population would create a significant risk of physical harm to staff, themselves and/or other inmates.

If reason #6 is used, staff must include a written explanation of the event and a justification for why this placement type is necessary.

Table 5 provides a distribution of the various reasons why individuals were sent to holding during FY2019.

Table 5: Holding Placement Reasons, FY2019

<b>Reason for Placement</b>	<b>Count of Events</b>	<b>%of Events</b>
1. Serious act of violent behavior	1004	20.77%
2. Recent escape or attempted escape	10	0.21%
3. Threat of actions of violence	512	10.59%
4. Active membership in a Security Threat Group	74	1.53%
5. Incitement or threats to incite group disturbances	91	1.88%
6. Presence in General Population will create a significant risk of physical harm	904	18.70%
No reason recorded	2,238	46.31%
<b>Total</b>	<b>4,833</b>	<b>100.00%</b>

Recall that holding placements may be used as a temporary assignment while staff identify the best resolution to a situation. If a holding event occurs, it may not necessarily be for reasons related to restrictive housing placements. As such, the 2,238 records with no placement reason recorded were all holding events that were disposed of on the same day with alternative placements or transitions to mission-specific housing units. When reasons for holding placements were provided, the most prevalent reason was for serious acts of violent behavior (20.77%), followed closely by a significant risk of harm to themselves or others if the person were to remain in the general population (18.70%). Individuals were placed in holding for threats of actions of violence in approximately 11% of cases, while the remaining 3.6% were placed for reasons related to recent escapes or attempted escapes, active membership in a security threat group, or inciting or threatening to incite group disturbances. Given that the majority of these holding events resulted in IS placements, these topics will be covered in more detail in the following section.

### Immediate Segregation (IS)

Immediate Segregation (IS) is a short-term housing assignment of not more than 30 days used in response to behavior that creates a risk to the person assigned, others, or the security of the institution. This type of restrictive housing is used to maintain safety and security while investigations are completed, and/or appropriate housing is identified. During FY2019, there were 2,595 total assignments to IS. The reasons for these placements are presented in Table 6.

Table 6: Immediate Segregation Placement Reasons, FY2019

<b>Reason for IS Placement</b>	<b>Count of Events</b>	<b>% of Events</b>
1. Serious act of violent behavior	1,004	38.69%
2. Recent escape or attempted escape	10	0.39%
3. Threat of actions of violence	512	19.73%
4. Active membership in a Security Threat Group	74	2.85%
5. Incitement or threats to incite group disturbances	91	3.51%
6. Presence in General Population will create a significant risk of physical harm	904	34.84%
<i>Inmate does not feel safe in General Population</i>	59	
<i>Inmate does not feel safe in Protective Custody</i>	40	
<i>Inmate has requested Protective Custody</i>	491	
<i>Inmate refused approved housing</i>	173	
<i>Inmate requires involuntary Protective Custody</i>	24	
<i>Other</i>	117	
<b>Total</b>	<b>2,595</b>	<b>100.00%</b>

Close to 60% of IS placements were related to serious acts of violent behavior (38.69%) or threats of actions of serious violent behavior (19.73%). This is consistent with the mission of using restrictive housing as a risk management tool, rather than a disciplinary sanction for minor rule violations. Although just under 35% of the remaining placements fell into the seemingly generic reason category 6 (“Inmates whose presence in the general population would create a significant risk of physical harm to staff, themselves, and/or other inmates”), closer examination reveals consistent trends in the use of this reason for risk management purposes, as well. Specifically, about half of the placements under reason category 6 (n=491; 54.3%) were due to individuals requesting protective custody (PC). About 20% of individuals (n=173) refused to leave restrictive housing and go to their assigned housing location, and another 13.6% were persons who noted they did not feel safe in general population (n=59) or in PC (n=40), or whom NDCS staff deemed to be in need of involuntary PC for their own protection (n=24). NDCS is committed to ensuring that the number of people placed into restrictive housing for reason 6 is kept to a minimum, and that when people are admitted for this reason, they are transitioned to an appropriate permanent housing assignment as quickly as possible.

The vast majority of people with immediate segregation assignments for reason #6 in the subcategory reason of “other” (n=117) were under the influence of drugs or alcohol, or were attempting to introduce contraband into the facility. IS placements were warranted for these individuals to ensure their safety and the safety of others while the person was intoxicated, as well as to investigate the source of the dangerous contraband (e.g., drugs, cell phones, weapons) and prevent further introductions of such items into the institution.

The average length of stay<sup>2</sup> for sentenced inmates assigned to IS was 16.19 days, with a median stay of 14 days. Thirty days is generally enough time for the Warden and his/her staff to determine whether the person can be released or whether a referral to LTRH is warranted. There are instances, however, in which an immediate decision regarding LTRH placements cannot be made and more time is needed to gather intelligence or find a suitable alternative living arrangement. In these situations, wardens or their designees may submit up to two requests for a 15-day extension, which could result in a potential maximum IS term of 60 days. These extension requests are reviewed by the Deputy Director – Prisons (or the Director, if a second request is submitted) and used in lieu of assignment to LTRH, if approved.

### Longer-Term Restrictive Housing (LTRH)

Longer-term restrictive housing (LTRH) is a restrictive housing assignment of more than 30 days and used as a risk management intervention for individuals whose behavior continues to pose a risk to the safety of themselves or others. LTRH assignments provide individuals with the opportunity to participate in evidence-based, risk-reducing cognitive behavioral programming, as well as collaborate in developing a plan for transitioning from restrictive housing back to general population or a mission-specific housing unit.

While the Warden or his/her designee may recommend individuals be placed on LTRH, such assignments are decided by the five-member Central Office Multidisciplinary Review Team (MDRT), which meets weekly to review and authorize all new assignments to LTRH. The team (chaired by the Deputy Director of Prisons, with representatives from behavioral health, classification, research, and intelligence) reviews each inmate on LTRH status at least once every 90 days to assess compliance with behavioral and programming plans, and to determine if his/her promotion to a less restrictive setting is compatible with the safety of the inmate, others and security of the facility.

The average length of time individuals spent on LTRH status<sup>3</sup> during FY2019 was 173.61 days, with a median length of stay of 97 days. When it comes to risk assessment and management, the amount of time required to address one's needs and mitigate the risk a person poses to the safety of themselves or others cannot be standardized. This is evidenced by the fact that LTRH placements for FY2019 varied between one day and 669 days. In order to safely and effectively transition people out of restrictive housing to general population, NDCS operates under the least restrictive environment standard. This provides needed flexibility to manage individuals in

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<sup>2</sup> Length of stay for immediate segregation placements are calculated as the number of days from a person's initial IS assignment to either their restrictive housing release date or their date of assignment to LTRH status. For individuals who were assigned to IS on the last day of FY2019, their event length of stay was calculated from their initial IS assignment through June 30, 2019.

<sup>3</sup> Length of stay for longer-term restrictive housing placements are calculated as the number of days from a person's initial LTRH assignment to their restrictive housing release date. For individuals who were assigned to LTRH on the last day of FY2019, their event length of stay was calculated from their LTRH assignment through June 30, 2019.

accordance with their own unique set of circumstances and risk factors, with the goal of transitioning people out of restrictive housing to the least restrictive environment in which they can safely be housed as soon as possible.

**Multidisciplinary Review Team (MDRT) referrals**

Between July 1, 2018 and June 30 2019, the MDRT conducted 2,654 LTRH reviews. This is a 47% reduction from FY2018, in which the team reviewed 5,011 unique referrals. This suggests that although holding and IS placements showed minor increases from FY2018 (holding = 4,389 in FY2018, 4,833 in FY2019; IS = 2,523 in FY2018, 2,595 in FY2019), the levels of elevated risk present in general population, as well as the perceptions of which behaviors warrant referrals for LTRH placement, has significantly decreased over the past year. Table 7 compares the facility LTRH recommendations to the decisions made by the MDRT.

**Table 7: Longer-Term Restrictive Housing Referral Outcomes, FY2019**

<b>Facility Submissions</b>		<b>MDRT Decision</b>			
<b>Recommendation</b>	<b># of Referrals</b>	<b>Assign</b>	<b>Continue</b>	<b>Remove</b>	<b>MDRT Approval Rate</b>
Assign to LTRH	646	489	0	157	75.70%
Continue Placement	1,748	0	1,416	332	81.01%
Remove	260	13	31	216	83.08%
<b>Total</b>	<b>2,654</b>	<b>502</b>	<b>1,447</b>	<b>705</b>	

With regard to initial LTRH assignments, the MDRT approved the Warden’s recommendation in just over three-quarters of their reviews. This is a six percentage point decrease from FY2018 (81.01%), and is likely caused by a combination of factors, including changes to the way inmates who need protective custody are managed (to be discussed in greater detail later in the report) and the replacement of two MDRT members. In June of 2018, Robert Madsen was appointed as Deputy Director of Prisons and took over responsibilities as MDRT chair. Dawn-Renee Smith was appointed Deputy Director of Programs in October of 2018, and began serving on MDRT as the classification representative. As with any group, new members bring unique perspectives to the issues being discussed and encourage new ideas. The flow of ideas among MDRT members produced novel and innovative strategies, including those detailed later in this report, to address the numerous challenges presented by this population and the degree of management they require.

Table 8 identifies the placement reason for the 502 cases MDRT assigned to LTRH. Consistent with the reasons for IS placement, a large portion of LTRH assignments (49.60%) were due to exhibited or threatened actions of violence. One-third of RH placements were due because the person’s presence in the general population would create a significant risk of physical harm to him-/herself or others. The vast majority of these placements (n=101) were because the person requested protective custody. An additional 27 people did not feel safe in general population (n=13) or in protective custody (n=9), or required an involuntary PC assignment (n=5).

Table 8: Longer-Term Restrictive Housing Assignment Reasons, FY2018

Reason for LTRH Placement	Count of Events	% of Events
1. Serious act of violent behavior	249	49.60%
2. Recent escape or attempted escape	1	0.20%
3. Threat of actions of violence	41	8.17%
4. Active membership in a Security Threat Group	29	5.78%
5. Incitement or threats to incite group disturbances	16	3.19%
6. Presence in General Population will create a significant risk of physical harm	166	33.07%
<i>Inmate does not feel safe in General Population</i>	13	
<i>Inmate does not feel safe in Protective Custody</i>	9	
<i>Inmate has requested Protective Custody</i>	101	
<i>Inmate refused approved housing</i>	33	
<i>Inmate requires involuntary Protective Custody</i>	5	
<i>Other</i>	5	
<b>Total</b>	<b>502</b>	<b>100.00%</b>

With regard to MDRT decisions to continue active LTRH placements, Table 7 shows a facility recommendation approval rate of around 81%, and removals are approved in 83.08% of cases. These rates are slightly lower than, though consistent with, the approval rates from FY2018 (83.84% for continuations and 85.06% for removals).

**Programs and services offered in restrictive housing**

Appendix 1 provides a list of programs and services offered in restrictive housing at each facility. Since 2014, NDCS has partnered with the University of Nebraska – Omaha (UNO) to implement the Transformation Project in restrictive housing. This program consists of 12 self-guided modules that are reviewed by facilitators for material comprehension. Through the use of motivational interviewing principles, participants learn how to identify the important processes related to change motivation and how to implement these changes in their own lives. Unfortunately, the private organization providing funds to UNO for the program discontinued their financial support during FY2019. Presently, the NDCS restrictive housing coordinator has taken over responsibility for reviewing program modules and providing feedback to participants. Although this is not a viable long-term solution, it ensures individuals in restrictive housing remain engaged in a pro-social activity while NDCS works with UNO to clarify the future of the Transformation Project and explore replacement alternatives.

In September 2017, NDCS introduced The Challenge Program (TCP), which is a three-phase program that provides a safe alternative to restrictive housing in a structured environment with an emphasis on non-clinical cognitive programming. The target population for this program is individuals who have demonstrated serious violence in NDCS facilities or where there is sufficient documented intelligence that they have orchestrated violence while in NDCS custody. When a person’s behavior and institutional record meet the eligibility criteria, MDRT may issue a TCP recommendation.

By incorporating evidence-based programming, such as Moral Reconciliation Therapy and Thinking for a Change, TCP aims to reduce criminal thinking patterns and the deviant behaviors they inspire among high risk individuals. One of the primary challenges of TCP is that those recommended for the program represent the highest risk, most violent segment of the LTRH population. They are also the individuals most resistant to participating in programs and effecting positive changes in their own lives. Recall from earlier, program participation is also hindered by the self-imposed “code” of certain STGs that prohibits members from engaging in the program. To encourage participation, MDRT continues to send personalized letters to those who refuse, outlining the benefits of this program and how it serves as their pathway back to the general population.

If immediate admission into a non-restrictive housing clinical residential program is determined to be a viable option after a participant has begun Phase 1, MDRT may consider this placement in lieu of TCP. In the event that the participant is removed from the clinical residential program, he may be returned to TCP Phase 2 or, if his behavior warrants, be assigned to Immediate Segregation status in accordance with departmental policies. The residential clinical programs offered within the Department (i.e., Violence Reduction Program [VRP], inpatient sex offender treatment [iHeLP], and residential substance use treatment) are also grounded in cognitive-behavioral intervention strategies.

To increase the availability of clinical programming, NDCS developed two VRP groups for restrictive housing. The first cohorts began in July of 2019 with one group located at TSCI and the other at NSP. In addition to expanding VRP to more locations, the program schedule has been standardized across all facilities. A need for continued programming is not an appropriate reason to keep someone in restrictive housing if they could be appropriately managed in a less restrictive environment. The standardized schedule for this program will allow individuals assigned to LTRH to seamlessly transition into a general population group when they are appropriate to be removed from restrictive housing. This will ensure they are able to continue their needed treatment, and do so in the least restrictive setting possible. In addition, MDRT may waive some or all phases of TCP for individuals who are assigned to that program and complete VRP while in restrictive housing.

In FY2018, NDCS collaborated with BetaGov, a non-profit organization that partners with government agencies to find effective, innovative solutions to problems through the use of randomized clinical trials. One trial at TSCI involved pairing restrictive housing residents with a peer support mentor in an effort to reduce misconduct. The results demonstrated the feasibility of testing mentorship on a larger sample, and the mentor initiative was expanded to NSP in FY2019. Between June 2018 and February 2019, NSP trained 20 inmate peer support specialists. During that same timeframe, these specialists engaged with 115 individuals in restrictive housing, 62 of whom were subsequently able to transition to general population or another less restrictive environment. Of the 62 people who left restrictive housing, 39 had not returned as of March 1, 2019.

## Special Needs Populations

Two special needs populations warrant careful consideration in any discussion of restrictive housing: individuals needing protective management housing, and inmates with diagnosed mental illnesses. This section discusses these two groups in greater detail.

### Protective Management

Protective management units are designed for inmates who cannot be safely housed in other general population units. These units operate similarly to general population units in terms of out-of-cell time, as well as access to programming, work, and recreation opportunities, and are not part of restrictive housing. Any discussion of restrictive housing would be incomplete without considering inmates with protective custody (PC) needs because of their contribution to the restrictive housing population. Recall from earlier sections of this report that people with PC needs, whether voluntary or involuntary, accounted for about one-quarter of all immediate segregation (n=614) and longer-term restrictive housing assignments (n=128).

Presently, only individuals who have a PC investigation under way, refuse a protective management housing assignment (but cannot safely return to general population), or are awaiting bed space in protective management are assigned to restrictive housing. Upon such assignment, NDCS works with these individuals to identify the most appropriate alternative housing assignment at the earliest opportunity. A number of changes were implemented during FY2019 to create a more efficient, effective process for managing these individuals and limiting the time they spend in restrictive housing.

One significant change is a shift in MDRT practice away from immediately assigning individuals who are referred to LTRH while a PC investigation is completed. Historically, MDRT had assigned people to LTRH when they were in restrictive housing pending a PC investigation for 30 days or more, with a follow-up review to occur 30 days after assignment. In FY2019, MDRT began rejecting to hear these cases and requiring institutional staff to submit an IS extension request. This increased the likelihood that an appropriate bed would be found for these individuals within the next 14 days, which is consistent with the overarching goal of keeping people in the least restrictive environment possible, and in restricted environments for the shortest amount of time possible.

In addition, the Intelligence Division took over the PC investigation process from facility staff. This frees time for unit staff, allowing them to be more responsive to the day-to-day needs of the individuals on their caseloads. Furthermore, it allows investigations to be conducted by staff members who have access to more restricted, confidential information, which may not be readily available to others. As a result, PC investigations are completed more quickly and comprehensively, allowing for a faster transition to an appropriate housing placement.

A second change in MDRT practice related to a person's removal from LTRH status. In events where people were assigned to LTRH pending appropriate bed availability, MDRT would also review the person once an appropriate bed was found to formally remove the person from his/her status. During FY2019, MDRT began adding language to assignment decisions allowing staff to remove people from LTRH status when appropriate bed spaces had been identified without the need for an additional MDRT review. Not only does this decrease the amount of time people are required to spend on LTRH once an appropriate placement decision has been made, it also enables facility staff to utilize their available beds more efficiently and reduces the MDRT caseload.

Finally, 32 beds in housing unit C1 at LCC were repurposed into the Limited Movement Unit (LMU). This unit houses individuals who must be separated from other individuals while a permanent protective custody housing assignment, or alternative general population housing assignment, is made. In contrast to restrictive housing, however, these individuals receive more than four hours out of cell each day and are provided opportunities, within reason, to interact with other individuals who have also been determined appropriate for PC status. This unit allows NDCS to carefully manage those individuals in need of additional security without placing them in a restrictive housing environment.

#### Mental Illness in Restrictive Housing

A primary area of concern in any restrictive housing discussion is how to address the needs of mentally ill individuals whose behavior presents a risk to themselves, others, and/or the safety and security of the institution. These individuals require a secure, therapeutic environment that provides critically needed mental health treatment while maintaining the safety of the patient, staff, and other inmates.

LCC used to house the Secure Mental Health Unit, which was an intensive therapeutic environment for individuals with serious, chronic, and persistent, mental health issues. Although its operations and inmate management techniques were more closely aligned with a mission-specific residential mental health housing unit, this unit was classified as restrictive housing in previous years because of out-of-cell time limitations. In January of 2019, NDCS realigned the operations of this 30-bed unit to allow for additional out-of-cell time (i.e., more than four hours per day) and to structure people into a 3-tiered level of care system. This system still provides a controlled and highly structured alternative to restrictive housing for individuals in need of residential mental health treatment due to chronic and unstable mental illnesses, developmental/intellectual disabilities and/or traumatic brain injuries that interfere with their safety or their ability to function effectively in other general population units. The three tiers of care allow for more precise triaging of individuals based on their level of acuity:

- Acute Care: five beds for people with serious, immediate, mental health care needs. This is generally a short-term status that allows for immediate stabilization.
- Subacute Care: 10 beds for people with serious issues in need of clinical treatment and intervention for emergent needs.

- Chronic Care: 15 beds for inmates who are clinically determined to be chronically and persistently mentally ill and unable to reside in a more open housing environment.

Mental health staff assigned to this unit provide a higher level of care to these high risk individuals with the goal of transitioning them to less restrictive options when it is safe and appropriate to do so. While this unit serves a crucial function within NDCS, it should be recognized that not all individuals with mental illnesses in restrictive housing require placement in such an intensive environment. Indeed, many persons with mental illness in restrictive housing are stabilized on medications and with other therapeutic interventions, and their placements in restrictive housing have nothing to do with their cognitive states. During FY2019, 695 of the 1,820 unique people in restrictive housing (38.2%) at any point during the year, and 141.04 of the restrictive housing average daily population (N=372.19; 37.90%), had a serious mental illness (SMI),<sup>4</sup> as defined in Nebraska Revised Statute 44-792(5)(b):

*Serious mental illness means, on and after January 1, 2002, any mental health condition that current medical science affirms is caused by a biological disorder of the brain and that substantially limits the life activities of the person with the serious mental illness. Serious mental illness includes, but is not limited to (i) schizophrenia, (ii) schizoaffective disorder, (iii) delusional disorder, (iv) bipolar affective disorder, (v) major depression, and (vi) obsessive compulsive disorder.*

Table 9 provides the serious mental illness diagnoses for these individuals.<sup>5</sup> Note that individuals may have had more than one diagnosis, so the total count of diagnoses will exceed the number of individuals. A high priority for NDCS is to reduce the assignment of individuals whose functionality is impaired by their mental illnesses to restrictive housing and to limit the time these individuals spend outside of a general population or mission-specific housing assignment. To accomplish this, mental health treatment is provided to individuals in restrictive housing, and mental health staff partner with their clients to develop behavior and programming plans that allow individuals to gradually step down into less restrictive environments and transition to the mental health unit or general population.

Recall from above, the behaviors that result in restrictive housing placements are not necessarily manifestations of a person's underlying SMI condition. Although some

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<sup>4</sup> In previous years' reports, SMI was identified by the presence or absence of an indicator entered into an inmate's profile in NICaMS, which determined a person's SMI status through a combination of his/her current level of care and diagnosed conditions. In order to follow best practices in identifying individuals who present with SMI, as well as to maintain consistency with State Statutes, the definition of SMI for the FY2019 report has been updated to reflect the conditions outlined in Nebraska Revised Statute 44-792(5)(b). Given that diagnosed SMI conditions are never cured (they may be well-managed or in remission), diagnoses from all of a person's previous NDCS incarceration records, when applicable, were considered in the SMI determination. Appendix 2 provides updated data for the FY2018 restrictive housing population using this adjusted definition.

<sup>5</sup> NDCS transitioned to the use of ICD-10 and DSM-5 diagnostic codes in its electronic data system during the latter half of FY2017. Certain conditions may not have been recorded prior to FY2019 because they did not exist and/or were unavailable for entry in NICaMS.

conditions may cause individuals to behave in disruptive ways or to decompensate when placed in a restricted environment, the majority of inmates with SMI are well-managed through a combination of medication, psychotherapy, and group-based interventions. During FY2019, NDCS laid the groundwork for appropriately managing inmates with SMI in the least restrictive environment possible, and will continue working toward a more robust level of care system. This will more clearly identify the level of services and interventions appropriate for persons with SMI, and ensure those who need enhanced levels of treatment receive such care.

Table 9: Serious Mental Illness Diagnoses among Restrictive Housing Population, FY2019

<u>Diagnosis<sup>1</sup></u>	FY2019 Total RH Population		FY2019 RH ADP	
	<u>Count of Individuals with Diagnosis<sup>2</sup></u>	<u>% of Diagnoses</u>	<u>ADP of Individuals with Diagnosis<sup>2</sup></u>	<u>% of Diagnoses</u>
Bipolar Disorder <sup>3</sup>	296	29.39%	65.38	29.83%
Major Depressive Disorder	259	25.72%	46.29	21.12%
Psychotic Disorder <sup>4</sup>	181	17.97%	48.49	22.12%
Schizoaffective Disorder	109	10.82%	22.78	10.39%
Schizophrenia	85	8.44%	22.22	10.14%
Intellectual Disability	44	4.37%	10.74	4.90%
Delusional Disorder	14	1.39%	1.69	0.77%
Obsessive Compulsive Disorder	7	0.70%	0.50	0.23%
Traumatic Brain Injury	5	0.50%	0.67	0.30%
Schizophreniform Disorder	4	0.40%	0.38	0.17%
Unspecified Neurocognitive Disorder	3	0.30%	0.07	0.03%
<b>Total Diagnoses among RH Population</b>	<b>1,007</b>	<b>100.00%</b>	<b>219.21</b>	<b>100.00%</b>
<b>Unique Individuals with Any SMI Diagnosis</b>	<b>695</b>		<b>141.01</b>	

<sup>1</sup> NDCS transitioned to the use of ICD-10 and DSM-5 diagnostic codes in its electronic data system during the latter half of FY2017. Certain conditions may not have been recorded prior to FY2019 because they did not exist and/or were unavailable for entry in NICaMS.

<sup>2</sup> Because individuals may have multiple diagnoses, the ADP and count of diagnoses will exceed the ADP and count of unique individuals in restrictive housing at any point during FY2019 with a serious mental illness.

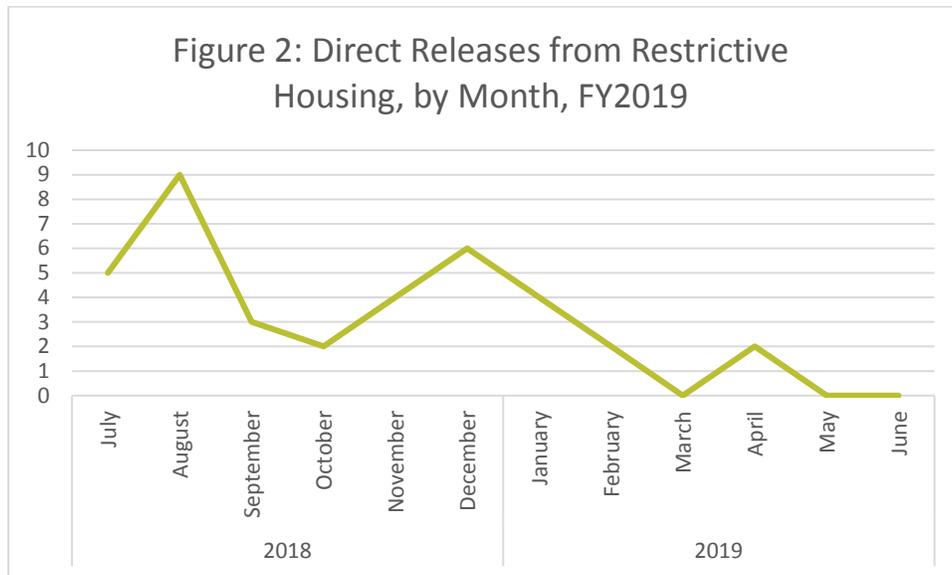
<sup>3</sup> "Bipolar Disorder" includes: Bipolar I Disorder, Bipolar II disorder, Bipolar Disorder NOS (not otherwise specified), and Substance-/Medication-Induced Bipolar and Related Disorders.

<sup>4</sup> "Psychotic Disorder" includes: Brief Psychotic Disorder, Psychotic Disorder due to another Medical Condition, Psychotic Disorder NOS (not otherwise specified), and Substance-/Medication-Induced Psychotic Disorder (alcohol, amphetamine, cannabis, cocaine, hallucinogen, or other substance)

## Direct Releases from Restrictive Housing to the Community

In addition to the use of restrictive housing for risk reduction purposes, another central objective of NDCS’s ongoing restrictive housing reform is to reduce the number of individuals who discharge directly from restrictive housing into the community. Consistent with the department’s mission: Keep People Safe, multiple measures have been put into place to prevent as many people as possible from releasing to the community without a period of transition through general population. The Discharge Review Team is required to review every person in restrictive housing within 120 days of their release. Facility staff also collaborate with their clients to develop a release plan that allows the person to transition out of restrictive housing and into general population, mission-specific housing, or treatment/behavioral-focused housing prior to release, when possible. Moreover, individuals who have spent more than 60 days in restrictive housing in the 150 days prior to their release have specialized reentry plans developed to avoid mandatory discharge from restrictive housing.

During FY2019, 37 people released from restrictive housing into the community; this is a 16% decrease from the 44 direct releases in FY2018. Of these 37, 16 finished their sentences and were directly discharged from NDCS, while 11 released into the community under parole supervision, and 10 were placed on post-release supervision under the jurisdiction of the Administrative Office of Probation. Figure 2 shows the number of direct restrictive housing released by month during FY19, and Appendix 3 provides information about these individuals and their restrictive housing placements.



There is a noticeable downward trend in the number of people released from restrictive housing over the course of FY2019. August accounted for the highest number of releases, with nine people transitioning from restrictive housing directly into the community. No one was paroled or discharged directly from restrictive housing in March, May, and June. The average amount of time spent in restrictive housing prior to discharge for these individuals was 107 days, although the range of actual time spent

was between 0 days and 878 days. The median length of time for these persons was 26 days, which is a more representative figure as nearly two-thirds of individuals were on IS status when they were released. In addition, 11 of the 37 people were released to a detainer. See Appendix 3 for additional details.

Table 10 shows the reasons these individuals were placed into restrictive housing and their restrictive housing status at the time of their release. Individual case file reviews reveal that about half of all individuals (n=19; 51.4%) requested to be placed in restrictive housing prior to their release in order to avoid trouble (e.g., threats of violence from other inmates, pressuring to commit assaults before release) and the chance of jeopardizing their parole and/or their tentative release date through the loss of good time. Of the 19, 12 requested protective custody placement within two weeks of their release date. One person requested such placement two months prior to release and continually refused to leave after appropriate alternative housing placements were identified.

Table 10: Direct Discharge to the Community, FY2019

Reason for Restrictive Housing Placement	IS Status	LTRH Status	Total
1. Serious act of violent behavior	4	4	8
2. Recent escape or attempted escape	0	0	0
3. Threats of actions of violence	1	2	3
4. Active membership in a Security Threat Group	1	5	6
5. Incitement or threats to incite group disturbances	1	0	1
6. Presence in general population will create a significant risk of physical harm	17	2	19
<b>Total</b>	<b>24</b>	<b>13</b>	<b>37</b>

An additional 11 were placed in restrictive housing due to their actions, or threat of actions, of violent behavior while incarcerated. Five people released from LTRH due to their security threat group affiliations. All were known security threat group members with extremely violent histories while incarcerated with NDCS, and two each spent over one year in restrictive housing prior to their release. One individual was in restrictive housing for 878 days due to his active STG status, including engagement in, and direction of, assaults and violence against other individuals. During his time in restrictive housing, he refused to participate in any risk-reducing programming and refused to meet with any reentry or social work staff to develop a release plan. Because of his known risk, and his lack of engagement in any activity to reduce that risk, he was not appropriate to be released back into the general population without jeopardizing the safety of others.

It is important to note that the risk a person poses to the safety of others in a prison environment does not necessarily translate into the same level and type of risk they may pose to others in the community once released. For example, the threats and acts of violence demonstrated by the person described above were targeted at those within the prison STG hierarchy and authority figures. In this way, they were a means for this person to demonstrate the degree of power and control he exerted over others within

his group, and the threat he posed to those who subscribed to different STG ideologies or would try to control his behavior. This influence is easier to wield in prison where options for the targets of such aggression to physically leave a situation are more limited than in the community. In addition, the informal prison subculture requires individuals respond to perceived disrespect, most often with violence. In the community, responses to perceived disrespect may take different forms and, when violent, may involve a lower level of physical harm than what is expected to occur within prison.

Recall from above that half of the people who left restrictive housing voluntarily placed themselves in an environment that would minimize the likelihood of their release being jeopardized. Multiple individuals noted they were tired of having to do things for their STGs and wanted to leave that life behind when they left prison. In these instances, restrictive housing placements were used to minimize the risk others posed to that person's safety while they finished their sentence, and to help ease their transition into the community. These individuals are less likely to pose a significant risk to, or be at risk from, their community upon release.

### Restrictive Housing Use in Surrounding States

As noted in previous years' reports, it is incredibly difficult to find standardized definitions of restrictive housing policies and practices across states. NDCS sent out a survey through ASCA this year in an attempt to collect more targeted information that would be responsive to the specific criteria outlined in Nebraska Revised Statute §83-83-4,114(4). However, definitional differences and lack of data collection in an easily retrievable way prevented some states from being able to respond, while others responded but noted that the information may not necessarily be comparable to Nebraska's measurements. As a result, the data for this year's report has been compiled from the ongoing restrictive housing studies conducted in collaboration with the Association of State Correctional Administrators (ASCA) and The Liman Center for Public Interest Law at Yale Law School (Liman), specifically their October 2018 publication, "[Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell.](#)"<sup>6</sup>

The 2018 ASCA-Liman report is their fourth publication of cross-state comparisons on the use of restrictive housing in the United States. Data for their report was collected from surveys administered through ASCA to all 50 states, the Federal Bureau of Prisons, the District of Columbia, and four large metropolitan jail systems. In addition to total system and restrictive housing population numbers, as well as the number of individuals with mental illnesses in restrictive housing, the 2018 report also includes the first set of reporting regarding length of stay in restrictive housing, gender, race and ethnicity, and age. This information is presented in more detail in the tables that follow.

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<sup>6</sup> For more information about the 2018 ASCA-Liman report, its background, the data selected for use in this report, and clarification on definitions used throughout the study, please refer to the original document, available at <https://www.documentcloud.org/documents/4999225-ASCA-Liman-2018-Restrictive-Housing-Revised-Sept.html>.

Please note that each table in this section contains two data points for Nebraska. The first is the data provided by Nebraska for the ASCA-Liman report. This data is different than the average daily population measures presented throughout the Restrictive Housing Annual Report due to differences in counting rules and the timeframe under examination. More specifically, the ASCA-Liman data is based on a snapshot of the NDCS population during the fall of 2017. The ADP values from this year's Restrictive Housing Annual Report have been provided to illustrate what the FY2019 data looks like after controlling for normal fluctuations that occur within any population.

The 2018 ASCA-Liman report notes that the 43 reporting jurisdictions identified a total of 1,087,671 incarcerated individuals, of whom 49,197 (or 4.5%) were held in restrictive housing.

### Race, Gender, Age, and Length of Stay

With regard to the demographics of restrictive housing populations, nationally, racial/ethnic minorities are somewhat overrepresented in restrictive housing populations relative to white inmates. Table 11a provides the total agency population for each state surrounding Nebraska, broken down by race/ethnicity, while Table 11b provides the restrictive housing racial/ethnic distribution for each of these agencies. Please note that not all jurisdictions reported on each racial/ethnic category, and two states (Kansas and Missouri) did not provide any racial/ethnic distributions to the ASCA-Liman study. For additional information about national trends in the use of restrictive housing by race/ethnicity, please refer to the original 2018 ASCA-Liman report.

It is not surprising that a higher proportion of restrictive housing populations, nationally, is comprised of males relative to females (4.6% of males and 1.2% of females are held in restrictive housing). This same trend exists in Nebraska, though approximately 7.3% of males and 0.9% of females are in restrictive housing. Table 12 provides the distribution of males and females in restrictive housing in surrounding states.

Table 11a: Agency Population by Race/Ethnicity, 2018 ASCA-Liman Data<sup>1</sup>

<u>Race/Ethnicity</u>	<u>Colorado</u>	<u>Iowa</u>	<u>Nebraska</u>	<u>South Dakota</u>	<u>Wyoming</u>	<u>Nebraska (FY2019 ADP)</u>
ASIAN	206	60	37	20	7	42.45
BLACK	3,221	2,109	1,442	304	110	1,517.73
HISPANIC	5,858	534	697	141	274	760.17
NATIVE AMERICAN	596	152	218	1,267	145	229.03
OTHER	2	(not reported)	42	6	0	45.51
PACIFIC ISLANDER	(not reported)	(not reported)	6	2	0	6.15
WHITE	8,414	5,428	2,736	2,187	1,618	2,870.67
Total	18,297	8,283	5,178	3,927	2,154	5,471.72

<sup>1</sup>Information on race/ethnicity was not reported by Kansas or Missouri.

Table 11b: Agency Restrictive Housing Population by Race/Ethnicity, 2018 ASCA-Liman Data<sup>1</sup>

<u>Race/Ethnicity</u>	<u>Colorado</u>	<u>Iowa</u>	<u>Nebraska</u>	<u>South Dakota</u>	<u>Wyoming</u>	<u>Nebraska (FY2019 ADP)</u>
ASIAN	0	3	1	0	0	0.83
BLACK	2	66	116	6	15	112.25
HISPANIC	6	23	76	4	9	71.94
NATIVE AMERICAN	0	2	24	44	16	32.42
OTHER	0	(not reported)	5	1	0	1.05
PACIFIC ISLANDER	(not reported)	(not reported)	0	0	0	0.05
WHITE	2	73	175	35	41	152.99
Total	10	167	397	90	81	371.54

<sup>1</sup>Information on race/ethnicity was not reported by Kansas or Missouri.

Table 12: Restrictive Housing Population for Surrounding States by Gender, 2018 ASCA Liman Data

State	Total System Population	Total Restrictive Housing Population	Males in Restrictive Housing	Females in Restrictive Housing
Colorado	18,297	10	10	0
Iowa	8,283	167	159	8
Kansas	9,889	459	(not reported)	(not reported)
Missouri	33,204	2,990	(not reported)	(not reported)
Nebraska	5,178	397	389	8
South Dakota	3,927	90	89	1
Wyoming	2,154	81*	81	4
Nebraska (FY2019 ADP)	5,477.08	372.19	368.41	3.78

*\*All data were taken directly from the 2018 ASCA-Liman report. There appears to be a discrepancy between the published total restrictive housing population of Wyoming, and the total of the male and female restrictive housing subpopulations in that state.*

Nationally, the majority of individuals in restrictive housing are between the ages of 26 and 50. This is in contrast to Nebraska where most people in restrictive housing are 36 years old or younger. Table 13 provides the age distribution for the restrictive housing populations in states surrounding Nebraska.

Table 13: Restrictive Housing Population by Age Group, 2018 ASCA-Liman Data<sup>1</sup>

Age Group	Colorado	Iowa	Nebraska	South Dakota	Wyoming	Nebraska (FY2019 ADP)
Under 18	0	0	0	0	0	4.30 (18 and under)
18-25	2	62	119	25	21	128.99 (19-26)
26-35	3	68	179	33	39	158.52 (27-36)
36-50	5	31	82	19	24	69.18 (37-51)
50 and Over	0	16	17	13	1	11.2 (52 and over)
Total	10	167	397	90	85	372.19

<sup>1</sup>Age distributions were not provided by Kansas or Missouri.

Thirty-six jurisdictions reported information regarding the amount of time individuals were held in restrictive housing. This information is presented in Figure 3 and Table 14. Relative to Nebraska, slightly fewer restrictive housing placements are resolved within 30 days (31% nationally, compared to 38% in Nebraska). Nebraska also has a much lower percentage of restrictive housing placements that last longer than one year (3% in Nebraska compared to 19.1%, nationally).

Figure 3 - National Average Time Spent in Restrictive Housing, 2018

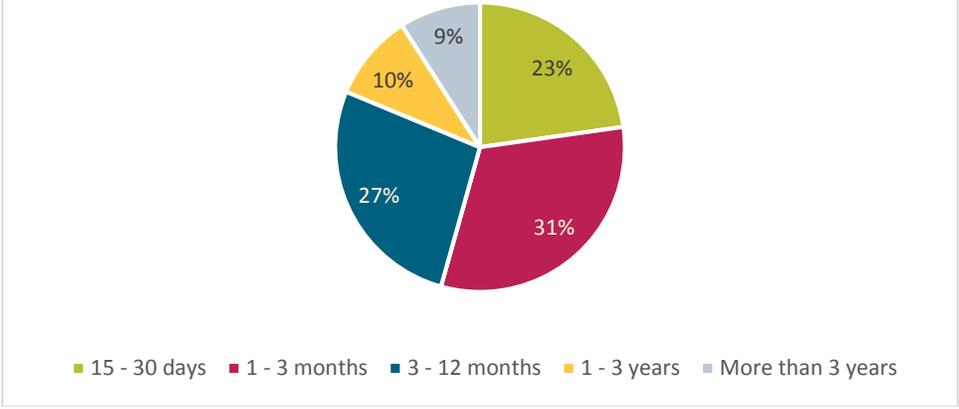


Table 14: Length of Stay for Surrounding States, 2018 ASCA-Liman Data

State	15-30 Days	1 – 3 Months	3 – 6 Months	6 – 12 Months	1 – 3 Years	3 – 6 Years	6 Years or More
Colorado	10	0	0	0	0	0	0
Iowa	56	98	10	3	0	0	0
Kansas	176	207	61	15	0	0	0
Missouri	1,122	842	215	229	80	20	2
Nebraska	19	94	102	81	32	1	3
South Dakota	18	6	10	16	21	12	7
Wyoming	21	31	25	2	1	1	0
Nebraska (FY2019 ADP)	566	642		139	151		

### Mental Illness in Restrictive Housing, Nationally

As noted on page 47 in the 2018 ASCA-Liman report:

*...the definitions of serious mental illness vary substantially, as do the policies governing placement of individuals with mental health issues – classified as ‘serious’ or otherwise – in restrictive housing. In addition to correctional department rules, some legislatures provide statutory direction and, in some jurisdictions, litigation has resulted in specified definitions and constraints. [...] Given this variation in scope and detail, a person could be classified as seriously mentally ill in one jurisdiction but not in another.*

Because of these definitional differences, it is difficult to make cross-state comparisons about the use of restrictive housing for individuals with mental illnesses. The report further notes that the data in the report has not been scaled nor transformed in any other way to allow for comparisons, but are instead reported as provided by each jurisdiction. Table 15 provides the count of individuals in restrictive housing in each of the surrounding states who are noted by that agency to have a serious mental illness.

Table 15: Inmates with Serious Mental Illnesses (SMI) in Restrictive Housing in Surrounding States, 2018 ASCA Liman Data

<b>State</b>	<b>Custodial Population with SMI</b>	<b>Population with SMI in RH</b>
Colorado	1,713	1
Iowa	1,176	27
Kansas	3,202	43
Missouri	4,871	751
Nebraska	263	54
South Dakota	151	13
Wyoming	268	43
Nebraska (FY2019 ADP)	(not reported)	141.01

Unfortunately, the 2018 ASCA-Liman report still does not report information regarding the reasons people in other states were held in restrictive housing, nor does it provide details regarding people released from restrictive housing directly to parole or into the general public. As such, no comparable information can be provided in this report.

Appendix 1: Longer-Term Restrictive Housing Programs and Services by Facility, FY2019

Program Name	LCC	NCCW <sup>^</sup>	NCYF	NSP	TSCI
Aggression Replacement Training*			X		
Beyond Trauma		X			
Beyond Violence		X			
Core Group*	X				
Creative Expressions*	X				
Current Events*	X				
Dialectical Behavioral Therapy		X			
Etiquette*	X				
Fear: The Anger Trigger*		X			
GED		X	X		
Interpersonal Problem Solving Skills*				X	
Introduction to Mental Health*†	X				
Journaling Group*	X				
Life Skills*	X				
Living in Balance	X	X			
Living Skills	X	X	X		
Longer-Term Restrictive Housing Mental Health Group*					X
METEOR†	X			X	
Moral Reconciliation Therapy		X			X <sup>‡</sup>
Peer Mentoring				X	
Relaxation Group†	X				
Symptoms Management†	X				
Table Talk*	X				
The Challenge Program					X
Thinking for a Change		X	X		
Transformation Project	X		X	X	X
Trauma Class	X				
Victim Empathy Class	X				
Violence Reduction Program				X	X
Wellness Recovery Action Planning (WRAP)				X	X

<sup>^</sup>Women in RH at NCW are allowed to attend GP programming

\*Designates program led by mental health staff.

†Collaboration with mental health unit

‡Denotes availability as component of The Challenge Program

Appendix 2: Serious Mental Illness Diagnoses among Restrictive Housing Population Comparison, FY2018 & FY2019

<u>Diagnosis<sup>1</sup></u>	FY2018 Total RH Population		FY2018 RH ADP		FY2019 Total RH Population		FY2019 RH ADP	
	<u>Count of Individuals with Diagnosis<sup>2</sup></u>	<u>% of Diagnoses</u>	<u>ADP of Individuals with Diagnosis<sup>2</sup></u>	<u>% of Diagnoses</u>	<u>Count of Individuals with Diagnosis<sup>2</sup></u>	<u>% of Diagnoses</u>	<u>ADP of Individuals with Diagnosis<sup>2</sup></u>	<u>% of Diagnoses</u>
Bipolar Disorder <sup>3</sup>	298	30.94%	70.44	32.13%	296	29.39%	65.38	29.83%
Major Depressive Disorder	251	26.06%	46.96	21.42%	259	25.72%	46.29	21.12%
Psychotic Disorder <sup>4</sup>	192	19.94%	51.35	23.42%	181	17.97%	48.49	22.12%
Schizoaffective Disorder	86	8.93%	23.02	10.50%	109	10.82%	22.78	10.39%
Schizophrenia	86	8.93%	27.67	12.62%	85	8.44%	22.22	10.14%
Intellectual Disability	41	4.26%	10.03	4.58%	44	4.37%	10.74	4.90%
Delusional Disorder	9	0.93%	1.72	0.78%	14	1.39%	1.69	0.77%
Obsessive Compulsive Disorder	0	0.00%	0.00	0.00%	7	0.70%	0.5	0.23%
Traumatic Brain Injury	0	0.00%	0.00	0.00%	5	0.50%	0.67	0.30%
Schizophreniform Disorder	0	0.00%	0.00	0.00%	4	0.40%	0.38	0.17%
Unspecified Neurocognitive Disorder	0	0.00%	0.00	0.00%	3	0.30%	0.07	0.03%
<b>Total Diagnoses among RH Population</b>	<b>963</b>	<b>100.00%</b>	<b>219.21</b>	<b>100.00%</b>	<b>1,007</b>	<b>100.00%</b>	<b>219.21</b>	<b>100.00%</b>
<b>Unique Individuals with Any SMI Diagnosis</b>	<b>666</b>		<b>151.25</b>		<b>695</b>		<b>141.01</b>	

<sup>1</sup> NDCS transitioned to the use of ICD-10 and DSM-5 diagnostic codes in its electronic data system during the latter half of FY2017. Certain conditions may not have been recorded prior to FY2019 because they did not exist and/or were unavailable for entry in NICaMS.

<sup>2</sup> Because individuals may have multiple diagnoses, the ADP and count of diagnoses will exceed the ADP and count of unique individuals in restrictive housing at any point during FY2019 with a serious mental illness.

<sup>3</sup> "Bipolar Disorder" includes: Bipolar I Disorder, Bipolar II disorder, Bipolar Disorder NOS (not otherwise specified), and Substance-/Medication-Induced Bipolar and Related Disorders.

<sup>4</sup> "Psychotic Disorder" includes: Brief Psychotic Disorder, Psychotic Disorder due to another Medical Condition, Psychotic Disorder NOS (not otherwise specified), and Substance-/Medication-Induced Psychotic Disorder (alcohol, amphetamine, cannabis, cocaine, hallucinogen, or other substance)

Appendix 3: Individuals Released from Restrictive Housing into the Community, FY2019  
(blue font indicates release to detainer)

Release Date	Placement Reason	Length of Stay	Status	Released From	Release Type	Released to Detainer
7/19/2018	4. Active membership in STG	9	IS	OCC	Post-Release Supervision	Yes
7/19/2018	6. Presence in GP will create a significant risk of physical harm	29	IS	OCC	Discharge	No
7/23/2018	6. Presence in GP will create a significant risk of physical harm	12	IS	NSP	Parole	No
7/26/2018	3. Threat of actions of violence	607	LTRH	TSC	Parole	No
7/31/2018	6. Presence in GP will create a significant risk of physical harm	4	IS	NSP	Post-Release Supervision	No
8/2/2018	4. Active membership in STG	878	LTRH	TSC	Discharge	No
8/8/2018	6. Presence in GP will create a significant risk of physical harm	22	IS	NSP	Parole	No
8/19/2018	4. Active membership in STG	178	LTRH	NSP	Post-Release Supervision	No
8/22/2018	6. Presence in GP will create a significant risk of physical harm	11	IS	NSP	Parole	Yes
8/22/2018	6. Presence in GP will create a significant risk of physical harm	26	IS	NSP	Discharge	Yes
8/27/2018	6. Presence in GP will create a significant risk of physical harm	9	IS	NSP	Discharge	Yes
8/27/2018	6. Presence in GP will create a significant risk of physical harm	52	LTRH	LCC	Parole	No
8/27/2018	1. Serious act of violent behavior	266	LTRH	TSC	Discharge	No
8/30/2018	6. Presence in GP will create a significant risk of physical harm	70	LTRH	TSC	Parole	No
9/7/2018	4. Active membership in STG	126	LTRH	NSP	Post-Release Supervision	Yes
9/13/2018	4. Active membership in STG	203	LTRH	NSP	Parole	Yes
9/18/2018	6. Presence in GP will create a significant risk of physical harm	7	IS	LCC	Parole	No
10/3/2018	6. Presence in GP will create a significant risk of physical harm	6	IS	NSP	Parole	Yes
10/29/2018	5. Incitement or threats to incite group disturbances	9	IS	NCY	Post-Release Supervision	Yes

Release Date	Placement Reason	Length of Stay	Status	Released From	Release Type	Released to Detainer
11/3/2018	4. Active membership in STG	598	LTRH	TSC	Discharge	No
11/4/2018	3. Threat of actions of violence	186	LTRH	TSC	Post-Release Supervision	No
11/13/2018	1. Serious act of violent behavior	2	IS	NSP	Discharge	Interstate Transfer – Returned to Original Jurisdiction
11/19/2018	6. Presence in GP will create a significant risk of physical harm	9	IS	OCC	Post-Release Supervision	Yes
12/1/2018	1. Serious act of violent behavior	8	IS	OCC	Post-Release Supervision	No
12/10/2018	3. Threat of actions of violence	4	IS	NSP	Discharge	No
12/11/2018	6. Presence in GP will create a significant risk of physical harm	4	IS	NCW	Post-Release Supervision	No
12/14/2018	1. Serious act of violent behavior	246	LTRH	LCC	Discharge	Yes
12/26/2018	1. Serious act of violent behavior	0	IS	LCC	Discharge	No
12/28/2018	6. Presence in GP will create a significant risk of physical harm	29	IS	OCC	Parole	No
1/7/2019	6. Presence in GP will create a significant risk of physical harm	2	IS	NCW	Parole	No
1/16/2019	6. Presence in GP will create a significant risk of physical harm	37	IS	NSP	Discharge	No
1/28/2019	6. Presence in GP will create a significant risk of physical harm	18	IS	NSP	Discharge	Yes
1/28/2019	1. Serious act of violent behavior	28	IS	OCC	Discharge	No
2/12/2019	6. Presence in GP will create a significant risk of physical harm	30	IS	OCC	Discharge	No
2/21/2019	6. Presence in GP will create a significant risk of physical harm	10	IS	NSP	Post-Release Supervision	No
4/20/2019	1. Serious act of violent behavior	92	LTRH	NSP	Discharge	No
4/24/2019	1. Serious act of violent behavior	130	LTRH	TSC	Discharge	No